and procedural matters relating to the investigation, assessment and collection of the penalties under section 6694(a) and (b), the rules under §1.6694–4 of this chapter will apply.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008]

§40.6695–1 Other assessable penalties with respect to the preparation of tax returns for other persons.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of any tax to which this part 40 applies shall be subject to penalties for failure to furnish a copy to the taxpayer under section 6695(a) of the Internal Revenue Code (Code), failure to sign the return under section 6695(b) of the Code, failure to furnish an identification number under section 6695(c) of the Code, failure to retain a copy or list under section 6695(d) of the Code, failure to file a correct information return under section 6695(e) of the Code, and negotiation of a check under section 6695(f) of the Code, in the manner stated in §6695–1 of this chapter.

(b) *Effective/applicability date.* This section is applicable for returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008; 74 FR 5106, Jan. 29, 2009]

§40.6696–1 Claims for credit or refund by tax return preparers.

(a) *In general.* The rules under §1.6696–1 of this chapter will apply for claims for credit or refund by a tax return preparer who prepared a return or claim for refund of any tax to which this part 40 applies.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008; 74 FR 5106, Jan. 29, 2009]

§40.7701–1 Tax return preparer.

(a) *In general.* For the definition of a tax return preparer, see §301.7701–15 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008]

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

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41.6694–1 Section 6694 penalties applicable to tax return preparer.

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Section 41.4482(b)–1 also issued under 26 U.S.C. 4482(b).

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Section 41.4483–3 also issued under 26 U.S.C. 4483(d).

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Section 41.6001–3 also issued under sec. 507, Public Law 100–17 (101 Stat. 260).

Section 41.6011(a)–1 also issued under 26 U.S.C. 6011(a).

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Section 41.6071(a)–1 also issued under 26 U.S.C. 6071 (a).

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Section 41.6101–1 also issued under 26 U.S.C. 6101.

Section 41.6109–1 also issued under 26 U.S.C. 6109(a).

Section 41.6109–2 also issued under 26 U.S.C. 6109(a).

Section 41.6151(a)–1 also issued under 26 U.S.C. 6151(a).

Section 41.6695–1 also issued under 26 U.S.C. 6695(b)

SOURCE: T.D. 6216, 21 FR 9645, Dec. 6, 1956; 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

Subpart A—Introduction

§ 41.0–1 Introduction.

The regulations in this part are designated ''Highway Use Tax Regulations.'' The regulations in this part relate to the tax on the use of certain highway vehicles imposed by section 4481 and to certain associated administrative provisions.

[T.D. 8879, 65 FR 17153, Mar. 31, 2000]

Subpart B—Tax on Use of Certain Highway Motor Vehicles

§ 41.4481–1 Imposition and computation of tax.

(a) *In general.* Tax is imposed on the use during a taxable period of any registered highway motor vehicle that (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds.

(b) *Rate of tax.* For the rate of tax generally, see section 4481(a). For the rate of tax for certain vehicles used in logging, see section 4483(e). For a special rule for the taxable period in which the tax terminates, see section 4482(d).

(c) *Computation of tax*—(1) *In general.* Except as otherwise provided in this paragraph (c), the tax on the use of a particular highway motor vehicle for a taxable period is computed as follows:

(i) For vehicles with a taxable gross weight of at least 55,000 pounds, but not over 75,000 pounds, add to $100 an amount equal to $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds; and

(ii) For vehicles with a taxable gross weight over 75,000 pounds, the tax is $550.

(2) *Certain prorated taxable periods.* If the first taxable use of a particular highway motor vehicle is made after the first month of the taxable period, the tax on the use of such vehicle for such taxable period is computed by multiplying the amount of tax that would be due for a full taxable period as computed under paragraph (c)(1) of this section, by a fraction. Such fraction shall have as its numerator the number of months in the taxable period beginning with the month of first taxable use and as its denominator the number of months in the entire taxable period. For purposes of determining the fraction, any part of a month is counted as a full month. (See example (2) of paragraph (e) of this section.)

(3) *Increase in taxable gross weight during the taxable period.* If the taxable gross weight of a vehicle increases during the month in which the vehicle is first used in a taxable period, the tax

for the vehicle for the taxable period is computed on the basis of the increased weight. If the taxable gross weight of a vehicle increases after the month in which the vehicle was first used in a taxable period, the additional tax liability, if any, that results from the increased weight is calculated according to the following formula:

$$\left[\left(T_1 \times \frac{P}{12}\right)+\left(T_2 \times \frac{R}{12}\right)\right]-T_1,$$

where:

T_1 = Tax imposed for a full taxable period (or partial taxable period as determined under paragraph (c)(2) of this section) at the vehicle's previously reported taxable gross weight.

T_2 = Tax imposed for the same taxable period as used in T_1 at the vehicle's increased taxable gross weight.

P = The number of months in the taxable period during which the vehicle's taxable gross weight was as previously reported for such taxable period. This number does not include the month in which the vehicle's taxable gross weight increased.

R = The number of months remaining in the taxable period including the month in which the vehicle's taxable gross weight was increased.

If tax was imposed for a partial taxable period as determined under paragraph (c)(2) of this section, the additional tax is determined by substituting the number of months in such partial taxable period for ''12'' in the above formula.

(4) *Prorated taxable period for sold, destroyed, or stolen vehicles*—(i) *In general.* The tax on a taxpayer's use of a highway vehicle for a taxable period is determined under paragraph (c)(4)(ii) of this section if—

(A) The vehicle is destroyed or stolen before the first day of the last month in the taxable period and is not later used by the taxpayer during the period; or

(B) The taxpayer sells the vehicle before the first day of the last month in the taxable period and does not later use the vehicle during the period.

(ii) *Computation of tax.* If the tax on a taxpayer's use of a highway vehicle for a taxable period is determined under this paragraph (c)(4)(ii), the tax is computed by multiplying the amount of tax that would be due for a full taxable period, as computed under paragraph (c)(1) of this section, by a fraction. The fraction has as its numerator the number of months in the period from the first day of the month in the period in which the first taxable use of the highway motor vehicle occurs to and including the last day of the month in which the highway motor vehicle was sold, destroyed, or stolen, and as its denominator the number of months in the entire taxable period. (See paragraph (d) *Example* (3)(i) of this section.)

(iii) *Overpayment.* If a taxpayer's liability for the tax on the use of a highway vehicle for a taxable period is determined under paragraph (c)(4)(ii) of this section, any tax the taxpayer paid under section 4481(a) on the use of the vehicle for such period in excess of the tax calculated under paragraph (c)(4)(ii) of this section is an overpayment of tax.

(iv) *Definition of destroyed vehicle.* For purposes of this paragraph (c)(4), a highway motor vehicle is destroyed if the vehicle is damaged due to an accident or other casualty to such an extent that it is not economical to rebuild.

(v) *Form and content of claim.* A claim for refund of an overpayment described in paragraph (c)(4)(iii) of this section must be made on Form 8849, ''Claim for Refund of Excise Taxes'' (or such other form as the Commissioner may designate) in accordance with the instructions for that form. A claim for a credit must be made on Form 2290, ''Heavy Highway Vehicle Use Tax Return'' (or such other form as the Commissioner may designate) in accordance with the instructions for that form. A claim for refund or credit for any vehicle must include—

(A) The vehicle identification number and taxable gross weight of the vehicle;

(B) The date of the sale, destruction, or theft of the vehicle; and

(C) If the vehicle was sold, the name and address of the purchaser of the vehicle.

(vi) *Tax on buyer's use of second-hand vehicles.* If a vehicle is sold during the taxable period and a credit or refund of the tax imposed by section 4481 is allowable upon the sale under paragraph (c)(4)(iii) of this section, tax is imposed on the use of the vehicle after the sale

and before the end of the taxable period. (See paragraph (c)(4)(vii) of this section for the rules regarding the computation of tax after the sale and before the end of the taxable period.)

(vii) *Computation of tax on second-hand vehicles.* The tax under paragraph (c)(4)(vi) of this section on the use of a vehicle after a sale upon which a credit or refund is allowable is computed by multiplying the amount of tax that would be due for a full taxable period as computed under paragraph (c)(1) of this section by a fraction. The fraction has as its numerator the number of months in the period from the first day of the month in which the first taxable use of the vehicle after the sale occurs (the first day of the month after such month if the first taxable use after the sale occurs in the month of the sale) through the end of the taxable period, and as its denominator the number of months in the entire taxable period. (See paragraph (d) *Example* (3)(ii) of this section.)

(5) *Decrease in taxable gross weight, discontinued use, or converted use.* The computation of the tax is not affected, and no right to a credit or refund of any tax paid under section 4481 arises, if in any taxable period—

(i) The taxable gross weight of a highway motor vehicle is decreased;

(ii) The use of a highway motor vehicle is discontinued (for reasons other than sale, destruction, or theft as described in paragraph (c)(4) of this section); or

(iii) The highway motor vehicle is converted to a use that is exempt from the tax imposed by section 4481(a).

(d) *Examples.* The application of §§ 41.4481–1, 41.4481–2, and 41.4482(c)–1(c) may be illustrated by the following examples:

Example (1). In the taxable period beginning July 1, 1984, the first taxable use of a particular highway motor vehicle, a bus, having a taxable gross weight of 56,000 pounds, occurs on July 10, 1984, at which time the vehicle is registered in the name of X. A tax of $122 ($100 + $22) is imposed on X for the use of such vehicle for such taxable period.

Example (2). On July 1, 1984, X has registered in his name a highway motor vehicle having a taxable gross weight of 60,000 pounds. The vehicle is in ''dead storage'' until August 10, 1984, at which time X starts using the vehicle on the public highways in carrying on his trucking business. On August 10, 1984, the vehicle is still registered in X's name. Since the first taxable use of this highway motor vehicle during the taxable period occurred on August 10, 1984, X is required to pay a tax of $192.50 ([$100 + (5 × $22)] × 11/12) for such taxable period.

Example (3). (i) In July, X uses a vehicle that is registered in X's name and has a taxable gross weight of 70,000 pounds. The vehicle is not a logging vehicle. X pays the $430 of tax imposed by section 4481 for the taxable period. On September 2 of the same calendar year, X sells the vehicle to Y. X's tax is calculated under paragraph (c)(4)(ii) by multiplying the amount of tax that would be due for a full taxable period by a fraction that has as its numerator the number of months in the period from the first day of the month in which X's first taxable use of the highway motor vehicle occurs to and including the last day of the month in which the vehicle was sold, and as its denominator the number of months in the entire taxable period. Thus, X's tax for the period is $107.50 (3/12 of $430), and X may claim a credit or refund of $322.50 ($430.00 − $107.50) in accordance with § 41.4481–1(c)(4)(v) after X sells the vehicle.

(ii) On September 23, Y uses the vehicle. Y is liable for tax on the use of the vehicle during the taxable period ending June 30 of the following calendar year. Y's tax is calculated under paragraph (c)(4)(vii) by multiplying the amount of tax that would be due for a full taxable period by a fraction that has as its numerator the number of months in the period from the first day of the month in which Y's first taxable use of the vehicle after the sale occurs (the first day of the month after such month if the first taxable use after the sale occurs in the month of the sale) through the end of the taxable period, and as its denominator the number of months in the entire taxable period. Y's first use of the vehicle occurs in the month of the sale. Accordingly, Y's tax is based on the number of months in the period from the first day of October (the month following the month of the first taxable use) through the end of June, and Y owes a section 4481 tax of $322.50 (9/12 of $430) for the taxable period.

Example (4). Assume the same facts as in *Example* (3)(i), except that on September 2, X sells the vehicle to Dealer, a dealer in highway motor vehicles. X may claim a credit or refund of $322.50. Dealer operates the vehicle exclusively for the purpose of demonstration, which is not a ''use'' of the vehicle under § 41.4482(c)–1(c). On May 2 of the following calendar year, Dealer sells the vehicle to Y. Dealer does not owe a section 4481 tax and may not claim a refund. Y's first taxable use of the vehicle occurs on May 3. Y's first taxable use of the vehicle does not occur in the

month of a sale upon which a credit or refund is allowable. Accordingly, Y's tax is calculated under paragraph (c)(2) by multiplying the amount of tax that would be due for a full taxable period by a fraction which has as its numerator the number of months in the taxable period beginning with the month of first taxable use and as its denominator the number of months in the entire taxable period. The numerator is the number of months in the period from the first day of May (the month of Y's first taxable use after the sale) through the end of June, and Y owes a section 4481 tax of $71.67 (2/12 of $430) for the taxable period.

(e) *Effective/applicability date.* This section applies on and after July 1, 2015. For rules applicable before that date, see 26 CFR 41.4481–1 (revised as of April 1, 2014).

[T.D. 8027, 50 FR 21246, May 23, 1985, as amended by T.D. 8159, 52 FR 33584, Sept. 4, 1987; T.D. 8177, 53 FR 6626, Mar. 2, 1988; T.D. 8879, 65 FR 17153, Mar. 31, 2000; T.D. 9698, 79 FR 64314, Oct. 29, 2014]

§41.4481–2 Persons liable for tax.

(a) *In general.* (1)(i) A person is liable for the tax imposed by section 4481 with respect to the use of a highway motor vehicle in a taxable period if the vehicle is registered in the person's name—

(A) At the time of the first use of the vehicle in the taxable period;

(B) In the case of a vehicle under a suspension of tax described in §41.4483–3(a), at the time the use on the public highways during the taxable period exceeds 5,000 miles (7,500 miles for agricultural vehicles);

(C) At the time that an increase in the taxable gross weight of the vehicle results in an additional tax liability (as computed under §41.4481–1(c)(3)) if the increase occurs after the month in which the vehicle was first used in the taxable period; or

(D) At the time of any use during the taxable period that is after the first use during the period, but only to the extent that the tax has not previously been paid.

(ii) In any case in which more than one person is liable for the tax for a taxable period, the liability of all persons is satisfied to the extent that the tax is paid by any person liable for the tax.

(2) If a vehicle is sold during the taxable period and a credit or refund is allowable upon the sale under §41.4481–1(c)(4)(iii), paragraph (a)(1) of this section is applied with the following modifications:

(i) For purposes of determining the person liable for the tax determined under §41.4481–1(c)(4)(ii), each reference to a taxable period in paragraph (a)(1) of this section is treated as a reference to the period that begins on the first day of the taxable period in which the vehicle is sold and ends on the date of sale.

(ii) For purposes of determining the person liable for the tax determined under §41.4481–1(c)(4)(vi), each reference to a taxable period in paragraph (a)(1) of this section is treated as a reference to the period that begins on the date of the sale and ends on the last day of the taxable period in which the vehicle is sold.

(3) The application of paragraph (a) of this section may be illustrated by *Examples* (3) and (4) in §41.4481–1(d).

(b) *Evidence of prior use of second-hand vehicle.* Every person who, at any time in the taxable period, acquires and has registered in his name a secondhand highway motor vehicle shall obtain and keep as a part of his records evidence, which he believes to be true, showing whether there was or was not a taxable use of such vehicle at any time in such taxable period prior to the time when the vehicle was registered in his name. Such person shall also obtain and keep as evidence a statement from the transferor as to whether there was in effect, at the time the vehicle was acquired, a suspension under §41.4483–3(a) of the tax imposed by section 4481(a). The evidence may take the form of a written statement, signed and dated by the person from whom the vehicle was acquired, showing whether there was or was not a prior taxable use of the vehicle and whether there was a suspension of tax in the taxable period. If the vehicle is acquired from a dealer in highway motor vehicles, the statement may be obtained from such dealer or from the person from whom the dealer acquired such vehicle. If evidence is not obtained showing whether there was or was not a prior taxable use of such vehicle and whether there was a

suspension of tax in the taxable period, such person shall keep as a part of his records a written statement of the reason why he was unable to obtain such evidence. For provisions relating to penalties for aiding and abetting an understatement of tax liability, see section 6701 of the Internal Revenue Code.

(c) *Effective/applicability date.* This section applies on and after July 1, 2015. For rules applicable before that date, see 26 CFR 41.4481–2 (revised as of April 1, 2014).

[T.D. 6743, 29 FR 7930, June 23, 1964, as amended by T.D. 8027, 50 FR 21247, May 23, 1985; T.D. 8879, 65 FR 17153, Mar. 31, 2000; T.D. 9698, 79 FR 64316, Oct. 29, 2014]

§ 41.4481–3 Registration.

(a) For purposes of the regulations in this part, the term ''registered'' when used in reference to a highway motor vehicle means—

(1) Registered under the law of any State or Territory of the United States, the District of Columbia, or contiguous foreign country, or

(2) Required to be registered under the law of any State or Territory of the United States or contiguous foreign country in which such highway motor vehicle is operated or situated or, in case the vehicle is operated or situated in the District of Columbia, under the law of the District of Columbia.

Any highway motor vehicle which is operated under a dealer's tag, license, or permit is considered to be registered in the name of such dealer. A highway motor vehicle is not considered to be registered solely by reason of the fact that there has been issued a special permit for operation of the vehicle at particular times and under specified conditions.

(b) Any highway motor vehicle which, at any time in the taxable period, is registered both in the name of the owner of the vehicle and in the name of any other person, is considered, for purposes of the regulations in this part, to be registered, at such time, solely in the name of the owner of the vehicle.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 8159, 52 FR 33584, Sept. 4, 1987]

§ 41.4482(a)–1 Definition of highway motor vehicle.

(a) *Highway motor vehicle.* The term ''highway motor vehicle'' means any vehicle that is both:

(1) A vehicle propelled by means of its own motor, whether such motor is powered by gasoline, diesel fuel, special motor fuels, electricity, or otherwise, and

(2) A ''highway vehicle'' as defined in § 48.4061(a)–1(d) of this chapter.

(b) *Treatment of certain excluded vehicles.* Although trailers and semitrailers used in combination with highway trucks or truck-tractors are not vehicles the use of which is subject to the tax imposed by section 4481(a), trailers and semitrailers customarily used in combination with highway trucks or truck-tractors are taken into account in determining the taxable gross weight of the highway motor vehicle under § 41.4482(b)–1, which is the base of the tax.

[T.D. 7461, 42 FR 2671, Jan. 13, 1977, as amended by T.D. 8879, 65 FR 17153, Mar. 31, 2000]

§ 41.4482(b)–1 Definition of taxable gross weight.

(a) *Actual unloaded weight*—(1) *In general. Actual unloaded weight* means the empty (or tare) weight of the truck, truck-tractor, or bus, fully equipped for service.

(2) *Trucks and truck-tractors.* A truck or truck-tractor fully equipped for service includes the body (whether or not designed and adapted primarily for transporting cargo, as for example, concrete mixers); all accessories; all equipment attached to or carried on such truck or truck-tractor for use in connection with the movement of the vehicle by means of its own motor or for use in the maintenance of the vehicle; and a full complement of lubricants, fuel, and water. It does not include the driver, any equipment (not including the body) attached to or carried on the vehicle for use in handling, protecting, or preserving cargo, or any special equipment (such as an air compressor, crane, specialized oilfield machinery, etc.) mounted on the vehicle for use on construction jobs, in oilfield operations, etc.

(3) *Buses.* A bus fully equipped for service includes the body; all accessories; all equipment attached to or carried on such bus for use in connection with the movement of the vehicle by means of its own motor, for use in the maintenance of the vehicle, or for the accommodation of passengers or others (such as air conditioning equipment and sanitation facilities, etc.); and a full complement of lubricants, fuel, and water. It does not include the driver.

(b) *Determination of taxable gross weight*—(1) *In general.* The taxable gross weight of a highway motor vehicle is the sum of the actual unloaded weight of the vehicle fully equipped for service, the actual unloaded weight of any semitrailers or trailers fully equipped for service customarily used in combination with the vehicle, and the weight of the maximum load customarily carried on the vehicle and on any semitrailers or trailers customarily used in combination with the vehicle. In the case of a highway motor vehicle that is registered in at least one State that requires a declaration of gross weight to be stated as a specific amount for any purpose (including proportional or prorate registration or the payment of any other fees or taxes), the taxable gross weight of such vehicle must be no less than the highest gross weight declaration (or combined gross weight declaration in the case of a tractor-trailer or truck-trailer combination) made by the registrant in any State with respect to such vehicle. If a highway motor vehicle is registered in at least one State that requires vehicles to register on the basis of gross weight and such vehicle is not registered in any State that requires a declaration of gross weight to be stated as a specific amount by the registrant, the taxable gross weight of such vehicle must fall within the highest gross weight category of such State for which such vehicle is registered during the taxable period. Declarations of weight made in order to obtain special temporary travel permits which allow a vehicle to, (i) operate in a State in which the vehicle is not registered or prorated, (ii) operate at more than a State's maximum statutory weight limit, or (iii) operate at more than the weight that the vehicle is registered in a State, shall not be considered in determining the taxable gross weight of a vehicle.

(2) *Buses.* For purposes of the tax imposed by section 4481(a), the taxable gross weight of a bus shall be the sum of the weights referred to in paragraph (b)(1) of this section except that ''the weight of the maximum load customarily carried'' on a bus shall be equal to 150 pounds times the number of units of seating capacity provided for passengers and driver.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is the owner of a truck-tractor. On January 1, 1985, A registers the truck-tractor in three states—X, Y, and Z. For purposes of registering the vehicle in State X, A declares the gross operating weight of his truck-tractor to be 60,000 pounds. The declaration of the gross weight of the vehicle at 50,000 pounds places A's truck-tractor in the State X registration category of 55,000 to 62,000 pounds gross weight. Thus, the registered weight of A's vehicle in State X is 62,000 pounds. At the same time as A registers the vehicle in State X, A also proportionally registers the vehicle under the IRP in State Y. A uses the same declared gross weight of 60,000 pounds for purposes of the State Y proportional registration. Registration in State Y at this declared gross weight places A's truck-tractor in the State Y gross weight registration category of 58,000 to 68,000 pounds. Finally, A registers the truck-tractor in State Z. Registration of vehicles in State Z is based on the unladen weight of the vehicle. During the taxable period beginning on July 1, 1985, A's truck-tractor is not registered in any other state. For the taxable period beginning on July 1, 1985, A must declare a taxable gross weight of no less than 60,000 pounds for purposes of the tax imposed by section 4481(a) because that is the highest declared gross weight for state registration or other purposes. Should A declare to any State agency a higher gross operating weight with respect to the truck-tractor during the same taxable period (except for a special temporary permit), A would then be liable for additional tax as determined under paragraph (c)(3) of §41.4481–1.

Example (2). Assume the same facts as in example (1), except that on one occasion during the taxable period, A was issued a special 2-day permit to use his truck-tractor in State Y to haul a load which would give A's unit a total gross weight of 80,000 pounds. A may still declare the taxable gross weight of

his unit to be no less than 60,000 pounds because special permits to haul heavier loads on a temporary basis are not considered in determining the taxable gross weight of a vehicle.

Example (3). C owns and has registered in his name 2 trucks which are identical in all respects and which are used to carry the same type of load. The first vehicle is registered only in State X at a registered weight of 73,000 pounds based on a declared gross weight of 70,000 pounds. The second vehicle is registered only in State Y at a registered weight of 68,000 pounds based on a declared gross weight of 65,000 pounds. No other declarations of gross weight are made with respect to either vehicle. For purposes of the Federal heavy vehicle use tax, the taxable gross weight of the vehicle registered in State X may be declared at no less than 70,000 pounds and the taxable gross weight of the vehicle registered in State Y may be declared at no less than 65,000 pounds even though the vehicles are identical.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 7011, 34 FR 7448, May 8, 1969; T.D. 8027, 50 FR 21247, May 23, 1985; T.D. 8879, 65 FR 17153, Mar. 31, 2000]

§ 41.4482(c)–1 Definition of State, taxable period, use, and customarily used.

(a) *State. State* includes any State, any political subdivision of a State, the District of Columbia, and, to the extent provided by section 7871, any Indian tribal government.

(b) *Taxable period.* For the definition of *taxable period*, see section 4482(c).

(c) *Use.* The term ''use'', as used in the regulations in this part with reference to a highway motor vehicle, means the use of the highway motor vehicle on the public highways in the United States, that is, operation of the vehicle, by means of its own motor, on any roadway (whether a Federal highway, State highway, city street, or otherwise) in the United States which is not a private roadway. Thus, for purposes of the tax, there is no use of a highway motor vehicle while the vehicle is in ''dead storage''. The term ''use'' does not include operation of a new highway motor vehicle on a public highway in the United States if such operation is merely for the purpose of transporting the vehicle from the point of manufacture or assembly to the consumer, whether direct or with intermediate deliveries to such points as are involved in the distribution process. For example, operation of a new vehicle for the purpose of delivering it from the factory to a branch establishment of the manufacturer, or from the factory or branch establishment to a dealer, distributor, or consumer, does not constitute use of the vehicle within the meaning of the regulations in this part; likewise, the further operation of the vehicle by a dealer or distributor for the purpose of delivering the vehicle to a consumer does not constitute use of the vehicle. Similarly, the operation of a secondhand highway motor vehicle by a dealer or distributor for the purpose of delivering the vehicle to a purchaser does not constitute use of the vehicle within the meaning of the regulations in this part. Furthermore, the term ''use'' does not include operation of a new or secondhand highway motor vehicle, if such operation is exclusively for the purpose of demonstration of the vehicle by a dealer in, or distributor of, new or secondhand highway motor vehicles. Operation of a highway motor vehicle on a private roadway, or other private property, does not constitute use of the vehicle within the meaning of the regulations in this part.

(d) *Customarily used.* A semitrailer or trailer is treated as *customarily used* in connection with a highway motor vehicle if the vehicle is equipped to tow the semitrailer or trailer.

[T.D. 7409, 41 FR 9877, Mar. 8, 1976, as amended by T.D. 7505, 42 FR 42856, Aug. 25, 1977; T.D. 8027, 50 FR 21248, May 23, 1985; T.D. 8159, 52 FR 33584, Sept. 4, 1987; T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483–1 State exemption.

Use of a highway motor vehicle by a State is exempt from the tax imposed by section 4481. For this purpose, the term *use by a State* means the operation by a State on the public highways in the United States of any highway motor vehicle, whether or not such highway motor vehicle is owned by the State.

[T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483–2 Exemption for certain transit-type buses.

(a) *In general.* Use in any taxable period, or part thereof, of any bus of the

transit type by any person who is engaged in the operation of a transit system is exempt from the tax, if such person meets the 60-percent passenger fare revenue test provided for in paragraph (e) of this section, for the applicable period prescribed in paragraph (c) of this section as the test period for such person for such system for such taxable period, or part thereof.

(b) *Buses of the transit type.* The term ''transit type'', when used in the regulations in this part with reference to a bus, means the type of bus which is designed for the mass transportation of persons within an urban area, as distinguished from the intercity-type bus. A transit-type bus is ordinarily distinguishable from an intercity-type bus by comparison of seats, doors, and baggage facilities. The transit-type bus usually has straight-back seats of the bench type, while the intercity-type bus generally has seats which either can be reclined or are in fact permanently fixed in a reclining position. The transit-type bus is more likely to have an accordion or folding-type door at the front of the bus, and often has a second door in the middle or at the rear for passengers to leave the bus, as opposed to the emergency-type rear door which may or may not be included in the intercity-type bus. The typical transit-type bus does not have facilities for storing baggage whereas the typical intercity-type bus has facilities for storing baggage in a compartment underneath the floor of the bus or in overhead racks, or both. Other characteristics which may be taken into account in distinguishing a transit-type bus from an intercity-type bus include gear ratios, acceleration and maximum speed, and aisle space for standees. The transit-type bus ordinarily has a lower gear ratio to provide for quick starts and because, in general, buses of this type are operated at low speeds. The intercity-type bus ordinarily has a higher gear ratio and can be operated at much higher speeds. The transit-type bus usually has wider aisles, with overhead straps or bars to accommodate standees.

(c) *Test period.* (1) In the case of any person who is engaged in the operation of a transit system at any time in the calendar quarter immediately preceding July 1 of any taxable period, the test period for such system for such taxable period shall be such calendar quarter. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the last preceding test period for such system. If such system has no preceding test period, then the test period for such system for such taxable period shall be the calendar quarter beginning with July 1 of such taxable period.

(2) Except as otherwise provided in subparagraph (3) of this paragraph, in the case of any person who commences operation of a transit system at any time on or after July 1 of any taxable period the test period for such system for that part of such taxable period beginning with the first day on which such operation was commenced shall be the calendar quarter in which falls such first day. However, if passenger fare revenue from scheduled service described in paragraph (e) of this section was derived on less than 30 days during such calendar quarter from operation of such system, the test period for such system for such taxable period shall be the following calendar quarter.

(3) In the case of any person who commences operation of a transit system at any time in the last calendar quarter to which the tax imposed by section 4481 applies, such last calendar quarter shall be the test period for such transit system regardless of the number of days in which passenger fare revenue is derived in such calendar quarter.

(d) *Transit system.* The term ''transit system'', as used in the regulations in this part, means any system for furnishing scheduled common carrier public passenger land transportation service along regular routes.

(e) *60-percent passenger fare revenue test.* For purposes of this section, a person engaged in the operation of a transit system meets the 60-percent passenger fare revenue test, for the applicable test period prescribed in this section, if:

(1) During such test period such person derived passenger fare revenue from the operation of such system, and

(2) At least 60 percent of the total of such passenger fare revenue derived by such person during such test period was attributable to (i) amounts paid for transportation which do not exceed 60 cents, (ii) amounts paid for commutation or season tickets for single trips of less than 30 miles, or (iii) amounts paid for commutation tickets for one month or less. In determining the total of such passenger fare revenue, revenue from sources such as charter fees, rentals of property, advertising receipts, etc., is not taken into account.

(f) *Examples.* Application of this section may be illustrated by the following examples:

Example (1). The X Transit Company is engaged in the operation of a transit system in the city of A and surrounding area throughout April, May, and June of 1984 and the taxable period beginning July 1, 1984. It derives passenger fare revenue from the operation of such system for 15 days in April and for the entire months of May and June of 1984. On July 1, 1984, the Company is using 60 buses of the transit type and 40 buses of the intercity type. Each of 20 of the transit-type buses and each of 10 of the intercity-type buses has a taxable gross weight of less than 55,000 pounds. (No tax is imposed on the use of either a transit-type bus or an intercity-type bus having a taxable gross weight of less than 55,000 pounds. See § 41.4481–1.) Use of the 10 intercity-type buses is subject to the tax for the taxable period beginning with July 1, 1984, since the exemption, if any, applies only to transit-type buses. Use of the 20 transit-type buses is not subject to the tax for such taxable period if at least 60 percent of the total passenger fare revenue derived by the X Transit Company during April, May, and June of 1984 (the test period prescribed in paragraph (c) (1) of this section) from operation of such system was from fares attributable to (i) amounts paid for transportation which do not exceed 60 cents, (ii) amounts paid for commutation or season tickets for single trips of less than 30 miles, or (iii) amounts paid for commutation tickets for one month or less. If the X Transit Company does not meet the 60-percent passenger fare revenue test for April, May, and June of 1984, the tax attaches for the taxable period beginning with July 1, 1984, with respect to the use of each of the 20 transit-type buses having a taxable gross weight of more than less than 55,000 pounds.

Example (2). Assume the same facts as those stated in Example (1), except that the X Transit Company commences operation of the transit system on July 15, 1984, and derives passenger fare revenue from operation of the system throughout the following August and September. In such case, the test period is July, August, and September of 1984, and if the test is met for this period, no tax is imposed on the use by the Company of any bus of the transit type in the period July 15, 1984, through June 30, 1985.

Example (3). Assume the same facts as those stated in Example (1), except that the X Transit Company commences operation of the transit system on April 15, 1985, and derives passenger fare revenue from operation of the system throughout the following May and June. In such case the test period is April, May, and June of 1985, and if the test is met for this period, no tax is imposed on the use by the Company of any bus of the transit type in the period April 15 through June of 1985, or in the taxable period beginning on July 1, 1985.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7931, June 23, 1964; T.D. 8027, 50 FR 21248, May 23, 1985; T.D. 8879, 65 FR 17154, Mar. 31, 2000]

§ 41.4483–3 Exemption for trucks used for 5,000 or fewer miles and agricultural vehicles used for 7,500 or fewer miles on public highways.

(a) *Suspension of tax*—(1) *In general.* Liability for the tax imposed by section 4481(a) is suspended during a taxable period if it is reasonable to expect that the vehicle will be used for 5,000 or fewer miles on public highways during such taxable period and the owner furnishes in the time and manner required the information required under paragraph (a)(2) of this section. See paragraph (g) of this section regarding special rules for agricultural vehicles. See § 41.4482(c)–1(c) for the meaning of ''use'' on the public highways.

(2) *Information to be supplied in support of suspension of tax.* The owner of a highway motor vehicle who reasonably expects that the vehicle will be used for 5,000 or fewer miles on public highways during a taxable period shall furnish on the first Form 2290 filed during the taxable period for such motor vehicle, such information as is required by the Form in order to support the suspension of tax under paragraph (a) of this section.

(b) *Cessation of suspension from tax.* If a highway motor vehicle on which the

tax under section 4481(a) is suspended for a particular taxable period under paragraph (a)(1) of this section is used for more than 5,000 miles on public highways during such taxable period, the owner of the vehicle is liable for the tax for the entire taxable period in accordance with section 4481(a).

(c) *Exemption.* If at the end of any taxable period during which the tax under section 4481(a) on a highway motor vehicle was suspended under paragraph (a)(1) of this section the vehicle has not been used for more than 5,000 miles on public highways, the vehicle shall be exempt from the tax for that taxable period. The owner of the vehicle shall verify that the vehicle was used for less than 5,000 miles in such ended taxable period on the first Form 2290 filed for the next taxable period.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A is the owner of 6 highway motor vehicles, each of which has a taxable gross weight in excess of 55,000 pounds. None of these 6 vehicles are agricultural vehicles. The vehicles are placed in use during July 1984. Because of the nature of his business, A reports on the first Form 2290 filed after June 30, 1984, that he reasonably expects that none of the vehicles will be used for more than 5,000 miles on public highways. Accordingly, the tax imposed by section 4481(a) is suspended for A's 6 vehicles for the taxable priod July 1, 1984, through June 30, 1985.

Example (2). Assume the same facts as in example (1) except that during the month of February 1985, the use of one of A's vehicles exceeds 5,000 miles on public highways. A is liable for the full tax for the taxable period July 1, 1984, through June 30, 1985, for that vehicle at the rate set forth in §41.4481–1(b), and must so report on a Form 2290 filed on or before March 31, 1985, the last day of the month following the month in which the use exceeds 5,000 miles.

(e) *Credit or refund of tax for highway motor vehicle used 5,000 or fewer miles.* (1) If a highway motor vehicle on which the tax imposed by section 4481(a) has been paid for a given taxable period is used for 5,000 or fewer miles on public highways during such taxable period, the person who paid the tax may file a claim for refund of an overpayment of the tax at the end of the taxable period. Claims for refunds of tax made under this paragraph (e) shall be filed in the same manner as claims for refunds filed under §41.4481–1(d). Refunds of tax made under this paragraph (e) shall be without interest.

(2) Any person entitled to claim a refund of tax under paragraph (e)(1) of this section may, in lieu of claiming a refund of such tax, claim credit for such tax on the first Form 2290 filed for the next taxable period.

(f) *Relief from liability for tax under certain circumstances.* If the tax imposed by section 4481(a) on a highway motor vehicle is suspended for any taxable period under paragraph (a) of this section and the vehicle is transferred while the suspension is in effect, the transferor will not be liable for any tax on such vehicle for such taxable period if such transferor furnishes a statement to the transferee on which is included the transferor's name, address and taxpayer identification number, the vehicle identification number, the date of transfer of the vehicle, the number of miles the vehicle has been used on the public highways during the taxable period, the odometer reading at the time of the transfer, and the name, address and taxpayer identification number of the transferee. The suspension from tax under paragraph (a) continues until the vehicle is used on the public highways for more than 5,000 miles during the taxable period (including use by the transferor for the portion of the taxable period prior to the transfer). If the transferor has furnished the statement required in this paragraph (f), the transferee and not the transferor is liable for the entire tax under section 4481(a) for the taxable period in which the transfer was made. If the transferor has not furnished such statement to the transferee, then the transferor is also liable for the tax on the use of such vehicle for such taxable period (determined in the case of a transfer described in §41.4481–1(c)(4)(i) under §41.4481–1(c)(4)(ii)) to the extent that the tax has not been previously paid. See paragraph (b) of this section relating to cessation of suspension from tax and §41.6011(a)–1(a)(3) for a requirement that certain transferees described in this paragraph (f) must file a return.

(g) *Special rule for agricultural vehicles*—(1) *In general.* In applying the provisions of this section to an agricultural vehicle, ''7,500'' shall be substituted for ''5,000'' each place it appears in paragraphs (a) through (f) of this section.

(2) *Meaning of terms*—(i) *Agriculture vehicle.* An agricultural vehicle is any highway motor vehicle—

(A) Used (or expected to be used) primarily for farming purposes, and

(B) Registered (under the laws of the State or States in which such vehicle is required to be registered) as a highway motor vehicle used for farming purposes.

A highway motor vehicle is used primarily for farming purposes if more than one-half of such vehicle's use (determined on the basis of mileage) during the taxable period is for farming purposes. Further, the highway motor vehicle must be registered (under the laws of the State or States where such vehicle is required to be registered) as a highway motor vehicle used for farming purposes for the entire taxable period in order to qualify as an agricultural vehicle. See § 41.4482(a)–(1) for the definition of ''highway motor vehicle''. A vehicle will be considered to be registered under the laws of the State as a highway motor vehicle used for farming purposes if such vehicle is so registered under a State statute or legally valid regulations. In addition, no special tag or license plate identifying a vehicle as being used for farming purposes is required.

(ii) *Farming purposes.* For purposes of this section, ''farming purposes'' means the transporting of any farm commodity to or from a farm, or the use directly in agricultural production.

(iii) *Farm commodity.* A ''farm commodity'' is any agricultural or horticultural commodity, feed, seed, fertilizer, livestock, bees, poultry, furbearing animals, or wildlife. A farm commodity does not include a commodity which has been changed by a processing operation from its raw or natural state. For example, juice which has been extracted from fruits or vegetables is not a farm commodity for purposes of this paragraph (g).

(iv) *Farm.* The term ''farm'' includes stock (including feed yards for fattening cattle), dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of any agricultural or horticultural commodity. Greenhouses and other similar structures used primarily for purposes other than the raising of agricultural or horticultural commodities (for example, display, storage, or fabrication of wreaths, corsages, and bouquets) do not constitute ''farms''.

(v) *Agricultural production*—(A) *In general.* A highway motor vehicle is considered to be used directly in agricultural production only if it is used as indicated in the following paragraphs.

(B) *Use of a highway motor vehicle in connection with cultivating, raising, and harvesting.* A highway motor vehicle is considered to be used directly in agricultural production if such vehicle is used in connection with cultivating the soil, or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry, and fur-bearing animals and wildlife. A highway motor vehicle which is used in connection with operations such as canning, freezing, packaging, or other processing operations will not be considered to be used directly in agricultural production.

(C) *Use of a highway motor vehicle in connection with planting, cultivation, caring for, cutting, etc., of trees.* A highway motor vehicle is used directly for agricultural production if it is used in connection with planting, cultivating, caring for, or cutting of trees, or in connection with the preparation (other than milling) of trees for market; but only if such operations are incidental to farming operations. These farming operations include felling trees and cutting them into logs or firewood, but do not include sawing logs into lumber, chipping, or other milling operations. The operations specified in this paragraph (g)(2)(v)(C) will be considered ''incidental to farming operations'' only if they are of a minor nature in comparison with the total farming operations involved. Therefore, a treefarmer or timbergrower may not

claim that a highway motor vehicle used in that trade or business is used directly in agricultural production.

(D) *Use of a highway motor vehicle in connection with the operation, management, conservation, improvement, or maintenance of a farm.* A highway motor vehicle is used directly for agricultural production if it is used in connection with the operation, management, conservation, improvement, or maintenance of a farm and its tools and equipment. Examples of these operations include clearing land, repairing fences and farm buildings, building terraces or irrigation ditches, cleaning tools or farm machinery, painting, and other activities which contribute in any way to the conduct of a farm as such, as distinguished from any other enterprise in which the owner of the highway motor vehicle may be engaged.

(3) *Mileage on farm not counted toward 7,500 mile limit.* For purposes of this section, the number of miles which a highway motor vehicle is driven on a farm and not on the public highways shall not be taken into account when determining whether the vehicle's mileage is in excess of 7,500 miles. Accurate records should be kept by taxpayers of the number of miles that a highway motor vehicle is operated on a farm.

(h) *Owner.* For purposes of this section the term ''owner'' means, with respect to any highway motor vehicle, the person described in section 4481(b).

(i) *Effective/applicability date.* This section applies on and after July 1, 2015. For rules applicable before that date, see 26 CFR 41.4483–3 (revised as of April 1, 2014).

[T.D. 8027, 50 FR 21248, May 23, 1985, as amended by T.D. 8879, 65 FR 17154, Mar. 31, 2000; T.D. 9698, 79 FR 64316, Oct. 29, 2014]

§41.4483–4 Application of exemptions.

Any exemption from the tax on the use of a highway motor vehicle has application only with respect to the use of such highway motor vehicle and not with respect to the highway motor vehicle as such. Furthermore, such exemption is subject to those provisions of paragraph (c) of §41.4481–1 relating to proration of the tax and to the effect of an exempt use of a highway motor vehicle after a taxable use has been made. Thus, if a taxable use is made of a highway motor vehicle at any time in a taxable period, the tax is imposed on the use of such vehicle for such taxable period, computed from the first day of the month in which such taxable use occurred, even though at some time in the same taxable period, before or after such taxable use occurred, the use of the vehicle may have been, or may be, exempt. For example, if a highway motor vehicle is operated exclusively by a State in the period July 1 through September 10 of a taxable period, use of such vehicle in such period is exempt from the tax. However, if a taxable use of the vehicle is made on September 11 of such taxable period, the tax imposed on the use of such vehicle for such taxable period is computed from September 1. On the other hand, if a taxable use of the vehicle is made at any time in July of the taxable period, the tax imposed on the use of such vehicle for such taxable period is computed from July 1, even though the vehicle may be operated exclusively by a State in every other month of such period.

[T.D. 6743, 29 FR 7931, June 23, 1964. Redesignated by T.D. 8027, 50 FR 21248, May 23, 1985]

§41.4483–6 Reduction in tax for trucks used in logging.

(a) *In general.* The tax imposed by section 4481 shall be reduced by 25 percent in the case of a truck used in logging.

(b) *Truck used in logging.* The term ''truck used in logging'' means any highway motor vehicle which—

(1) Is used exclusively during the taxable period for the transportation, to and from a point located on a forested site, of products harvested from such forested site, and

(2) Is registered (under the laws of the State or States in which such vehicle is required to be registered) as a highway motor vehicle used exclusively in the transportation of harvested forest products.

Products harvested from the forested site may include timber which has been processed for commercial use by sawing into lumber, chipping or other milling operations if such processing occurs prior to transportation from the forested site. A vehicle will be considered to be registered under the laws of

a state as a highway motor vehicle used exclusively in the transportation of harvested forest products if such vehicle is so registered under a state statute or legally valid regulations. In addition, no special tag or license plate identifying a vehicle as being used in the transportation of harvested forest products is required.

[T.D. 8027, 50 FR 21250, May 23, 1985]

Subpart C—Administrative Provisions of Special Application to Tax On Use of Certain Highway Motor Vehicles

§ 41.6001–1 Records.

(a) *Records to be kept.* Every person in whose name a highway motor vehicle having a taxable gross weight of at least 55,000 pounds is registered or required to be registered at any time during the taxable period shall keep records sufficient to enable the Commissioner to determine whether such person is liable for the tax and, if so, the amount thereof. See § 41.4482(b)–1 for the definition of taxable gross weight. Such records shall show with respect to each such vehicle:

(1) A description of the vehicle (including serial number or manufacturer's number) in sufficient detail to permit positive identification of the vehicle.

(2) The weight of the loads carried by the vehicle in such form as is required under the laws of any State in which the vehicle is registered or required to be registered, in order to permit verification of such vehicle's taxable gross weight.

(3) The date on which such person acquired such vehicle and the name and address of the person from whom the vehicle was acquired.

(4) The first month of each taxable period in which occurred a taxable use of each such vehicle while the vehicle was registered in the name of such person; information showing whether such vehicle was operated, while registered in the name of such person, in any prior month in such taxable period; and if such vehicle was so operated, evidence establishing that such operation was not a taxable use.

(5) The date of sale or other transfer to another of any such vehicle, together with the name and address of the person to whom transferred.

(6) In the case of any such vehicle disposed of otherwise than by sale or other transfer (including disposition by theft or destruction), the date and method of disposition of the vehicle.

(7) In the case of a secondhand highway motor vehicle acquired at any time in the taxable period, evidence showing whether there was a prior taxable use in such taxable period of the highway motor vehicle (see paragraph (b) of § 41.4481–2) or whether there was a suspension of tax in effect (see § 41.4483–3).

(8) A copy of each return, schedule, statement, or other document filed, pursuant to the regulations in this part or in accordance with the instructions applicable to any form prescribed thereunder, by the person required to keep such records.

(b) *Transit systems.* Every person engaged in the operation of a transit system who claims exemption from tax with respect to a transit-type bus shall keep records sufficient to show, with respect to each taxable period, whether it meets the 60-percent passenger fare revenue test (see paragraph (e) of § 41.4483–2) for the period prescribed as the test period (see paragraph (c) of § 41.4483–2) for such system for such taxable period.

(c) *Exemption for vehicles used 5,000 miles or less.* The owner of a highway motor vehicle who reasonably expects the vehicle to be exempt from the tax under section 4481(a) by reason of § 41.4483–3(c) for a given taxable period shall keep records which indicate the reason that the use of the vehicle is not expected to exceed 5,000 miles on public highways.

(d) *Records of claimants.* Any person claiming refund, credit, or abatement of the tax, interest, additional amount, addition to the tax, or assessable penalty, shall keep a complete and detailed record with respect to the claim.

(e) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at a convenient and safe location within the United States which is accessible

to internal revenue officers. Such records shall at all times be available for inspection by such officers. If such person has a principal place of business in the United States, the records shall be kept at such place of business.

(2) Records required by paragraph (a) of this section shall be maintained for a period of at least 3 years after the date the tax becomes due or the date the tax is paid, whichever is the later. Records required by paragraphs (b) and (c) of this section shall be maintained for a period of at least 3 years after the end of the taxable period for which such exemption applies. Records required by paragraph (d) of this section (including any record required by paragraphs (a), (b), or (c) of this section which relates to a claim) shall be maintained for a period of at least 3 years after the date the claim is filed.

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7932, June 23, 1964; T.D. 8027, 50 FR 21250, May 23, 1985; T.D. 8879, 65 FR 17154, Mar. 31, 2000; T.D. 9698, 79 FR 64316, Oct. 29, 2014]

§ 41.6001–2 Proof of payment for State registration purposes.

(a) *In general.* This section sets forth the circumstances under which a State must require proof of payment of the tax imposed by section 4481(a), and the required manner in which such proof of payment is to be received by the State as a condition of issuing a registration for a highway motor vehicle. A State must either comply with the provisions of this section or, in the alternative, comply with such other rules regarding the satisfaction of this proof of payment requirement as may be prescribed by the Commissioner (by Revenue Procedure or otherwise), in order to avoid a reduction of Federal-aid highway funds apportioned under 23 U.S.C. 104(b)(4). For purposes of this section, the rules of section 7502 and § 301.7502–1 of this chapter (relating to timely mailing treated as timely filing) determine when an application for registration is considered to be received by a State.

(b) *Proof of payment required*—(1) *In general.* A State to which an application is made to register a highway motor vehicle must receive from the registrant proof of payment of the tax imposed by section 4481(a) (or proof of suspension of such tax under § 41.4483–3) unless otherwise provided in this paragraph (b)(1), or paragraph (b)(2) or (5) of this section. See paragraph (c) of this section for the meaning of ''proof of payment''. Such proof of payment must be received by the State before the State issues a registration for such vehicle unless the State is using a system of registration provided in paragraph (b)(3) of this section. The term ''proof of payment'', when used in this section, shall be considered to refer in appropriate cases to proof of suspension of the tax imposed by section 4481(a). Except as provided in paragraph (b)(4) of this section, any proof of payment presented to a State must relate to tax paid (or suspended under § 41.4483–3) for the taxable period which includes the date that the State receives the application for registration. A ''base state'' must be presented proof of payment when issuing an ''apportioned plate'' under the International Registration Plan (IRP) (or similar agreement) for a highway motor vehicle, but no proof of payment of the tax imposed by section 4481(a) is required to be presented to the other states for which the vehicle is proportionally registered and which are listed on the IRP cab card issued by the base state. Further, a State is not required to receive proof of payment in order to issue special temporary travel permits which allow a vehicle to, (i) operate in a State in which the vehicle is not registered (including proportional or prorate registration), (ii) operate at more than the State's maximum statutory weight limit, or (iii) operate at more than the weight that the vehicle is registered in a State. Further, a State may register a highway motor vehicle without proof of payment if the person registering the vehicle presents the original or a photocopy of a bill of sale (or other document evidencing transfer) indicating that the vehicle was purchased by the owner either as a new or used vehicle during the preceding 60 days before the date that the State receives the application for registration of such vehicle.

(2) *States required to receive proof of payment with respect to vehicles subject to tax*—(i) *Registration in States that register vehicles on the basis of gross weight.*

A State that registers vehicles on the basis of gross weight must require proof of payment with respect to any highway motor vehicle that has a declared gross weight in that State of 55,000 pounds or more. If no declaration of a specific gross weight is made with respect to a highway motor vehicle registered on the basis of gross weight, then the State must require proof of payment with respect to such vehicle if the minimum weight of the registered weight category for such vehicle is 55,000 pounds or more. No such proof of payment is required for any vehicle that does not have a declared gross weight in that State of 55,000 pounds or more.

(ii) *Registration in States that register vehicles other than on the basis of gross weight.* A State that registers vehicles other than on the basis of gross weight must require proof of payment in order to register a highway motor vehicle unless the State receives a written statement stating that during the taxable period which includes the date on which the State receives the application for registration, such vehicle had a taxable gross weight of less than 55,000 pounds. The written statement must state the number of vehicles being registered that have a taxable gross weight of less than 55,000 pounds and must be signed by the person registering the vehicles. A State may register a highway motor vehicle without receiving either proof of payment or a written statement as described above if such vehicle has an unladen weight of 8,000 pounds or less. However, the State must require proof of payment when issuing a ''base plate'' registration for a vehicle if a gross weight declaration of 55,000 pounds or more is made to the State with respect to such vehicle in order to proportionally register the vehicle in another State under the IRP.

(iii) *State may require additional proof.* Nothing contained in this section shall prohibit a State from refusing to register a highway motor vehicle without additional proof that the vehicle is not subject to tax under section 4481(a) even though the person registering the vehicle submits a written statement declaring that the taxable gross weight of such vehicle is less than 55,000 pounds.

(3) *Suspension registration system.* A State may issue a registration with respect to any or all highway motor vehicles subject to tax under section 4481(a) without receiving proof of payment if such vehicles are registered under a ''suspension'' registration system. Registration of a vehicle subject to tax under a suspension system must be on the condition that, (i) the State receive proof of payment with respect to such vehicle no later than 4 months (or any lesser time to be determined by the State) after the beginning of the vehicle's registration period, and (ii) the State's system provides for the automatic suspension (*e.g.* through the use of computer-generated notices) of such vehicle's registration if no proof of payment is received within the required time. Following such a suspension of registration, the State must not allow the vehicle to be registered until valid proof of payment is received. A State may either register all vehicles subject to tax under section 4481(a) in the manner described in this paragraph (b)(3) or adopt this manner of registration only in situations which the State deems appropriate. A State that registers vehicles other than on the basis of gross weight may also register vehicles not subject to tax under a suspension registration system for purposes of receiving the written statement described in paragraph (b)(2)(ii).

(4) *Registration during certain months.* In the case of a highway motor vehicle subject to tax under section 4481(a) for which a State receives an application for registration during the months of July, August or September, proof of payment for the immediately preceding taxable period may be used to verify payment of the tax imposed by section 4481(a).

(5) *Registration in a State several times during the taxable period.* A State is required to receive proof of payment with respect to a highway motor vehicle subject to tax under section 4481(a) only once during a taxable period. Thus, in the case of a State that allows a highway motor vehicle to be registered on a quarterly basis, rather than annually, proof of payment will be required to be presented to the State only once during the taxable period. The State may designate any one

of the four quarterly registration periods as the time for submitting proof of payment.

(6) *Proof of payment records.* See 23 CFR part 669 for a description of the supporting documentation and records that will be required by the Federal Highway Administration (FHWA) in order to allow the FHWA to verify that the State is in compliance with the rules of this section.

(c) *Proof of payment*—(1) *In general.* The proof of payment required in paragraph (b) of this section consists of a receipted Schedule 1 (Form 2290 ''Heavy Highway Vehicle Use Tax Return'') that is returned by the Internal Revenue Service, by mail or electronically, to a taxpayer that files a return of tax under section 4481(a), meets the requirements of §41.6011(a)–1, and pays the amount of tax due with such return. A photocopy of such receipted Schedule 1 also serves as proof of payment. Such Schedule 1 serves as proof of suspension of such tax under §41.4483–3 for the number of vehicles entered in that part of the Schedule 1 designated for vehicles for which tax has been suspended. The vehicle identification number of the vehicle being registered must appear on the Schedule 1 (or an attached page) in order for the Schedule 1 to be a valid proof of payment for such vehicle.

(2) *Acceptable substitute for receipted Schedule 1.* For purposes of this section, a State must accept as proof of payment a photocopy of the Form 2290 (with the Schedule 1 attached) that was filed with the Internal Revenue Service for the vehicle being registered with sufficient documentation of payment of tax due at the time the Form 2290 was filed (such as a photocopy of both sides of a cancelled check). This substitute proof of payment may be used to register a vehicle when, for example, the receipted Schedule 1 has been lost, or when at the time required for registration of a vehicle, a receipted Schedule 1 has not been received by a taxpayer who has filed a Form 2290 with respect to such vehicle.

(d) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). A applies to register a 3-axle single unit truck in State R, a member of the International Registration Plan, on November 1, 1985. State R registers vehicles based on unladen weight. At the same time, A applies for a proportional registration under the IRP to use the truck in State S. State S does not register vehicles on the basis of unladen weight. For purposes of the proportional registration in State S, A declares the gross weight of his truck at 50,000 pounds. A does not register the truck in any other states. A's truck has a taxable gross weight, as determined under §41.4482(b)–1, of less than 55,000 pounds and therefore is not subject to tax under section 4481(a). A submits a written statement along with his application for registration in State R. The written statement states that A's vehicle has a taxable gross weight of less than 55,000 pounds and is signed by A. State R may register A's truck and issue a proportional registration for A to use his truck in State S without receiving proof of payment.

Example (2). Assume the same facts as in example (1) except that A applies for proportional registration under the IRP in State S and declares the truck to have a gross weight of 60,000 pounds. The taxable gross weight of A's truck, as determined under §41.4482(b)–1 is 60,000 pounds. State R may not register A's truck unless it receives proof of payment within the meaning of paragraph (c) of this section.

Example (3). On October 10, 1985, C applies to register 9 vehicles in State U and declares the gross weight of each vehicle to be 70,000 pounds. C has not applied for registration in any other states. At the time of applying for registration, C presents a photocopy of a receipted Schedule 1 (Form 2290) that shows a total of 9 vehicles which are subject to tax under section 4481(a) and for which tax is not suspended under §41.4483–3(a). The vehicle identification numbers of the vehicles that C is seeking to register must be listed on the Schedule 1 in order for State U to register the vehicles.

(e) *Effective/applicability date.* Paragraph (c) of this section applies to registrations of highway motor vehicles pursuant to applications that are received by a State on or after July 1, 2015. The rules of section 7502 and §301.7502–1 of this chapter (relating to timely mailing treated as timely filing) determine when an application for registration is considered to be received by a State. For rules applicable to applications before that date, see 26 CFR 41.6001–2 (revised as of April 1, 2014).

[T.D. 8027, 50 FR 21251, May 23, 1985, as amended by T.D. 8879, 65 FR 17154, Mar. 31, 2000; T.D. 9537, 76 FR 43122, July 20, 2011; T.D. 9698, 79 FR 64316, Oct. 29, 2014]

§ 41.6001–3 Proof of payment for entry into the United States.

(a) *In general.* (1) Except as otherwise provided in paragraph (a)(2) of this section, proof of payment of the tax imposed by section 4481(a) must be presented to United States Customs officials with respect to any highway motor vehicle subject to the tax imposed by section 4481(a) that has a base for registration purposes in a contiguous foreign country upon entry of such vehicle into the United States during any taxable period to which this section applies. Such proof of payment must relate to tax paid (or suspended under § 41.4483–3) for the taxable period that includes the date of entry into the United States. See paragraph (c) of this section for the definition of the term ''proof of payment.''

(2) No proof of payment is required upon entry of a highway motor vehicle described in paragraph (a)(1) of this section into the United States if, as of the date of such entry, the period of time for filing a return of the tax imposed on such vehicle by section 4481(a) for the taxable period that includes the date of such entry has not expired and a written declaration is presented to United States Customs officials. Such declaration must state that, as of the date of such entry, the period of time for filing a return of the tax imposed on such vehicle by section 4481(a) for the taxable period that includes the date of such entry has not expired. The written declaration must include (i) the name, address, and taxpayer identification number of the person liable under § 41.4481–2 for the tax imposed on such vehicle; (ii) the vehicle identification number of such vehicle; (iii) the date on which such vehicle was first used on the public highways in the United States during the taxable period (or a statement that the current entry is the first use on the public highways in the United States during the taxable period); (iv) an acknowledgment by the person liable for the tax imposed on such vehicle that the willful use of the declaration to evade or defeat the tax otherwise applicable under section 4481(a) will subject such person to a fine or imprisonment or both; and (v) the signature of the person liable for the tax imposed on such vehicle. A copy of the written declaration shall be retained in the records of the person liable for the tax imposed on such vehicle under the rules of § 41.6001–1. See § 41.6071(a)–1 for rules regarding the time for filing a return of the tax imposed by section 4481(a).

(b) *Failure to provide proof of payment.* If, upon attempting to enter the United States, the operator of a highway motor vehicle described in paragraph (a) of this section is unable to present proof of payment of the tax imposed by section 4481(a), or documentation described in paragraph (a)(2) of this section, with respect to such vehicle, then such vehicle may be denied entry into the United States.

(c) *Proof of payment*—(1) *In general.* For purposes of this section, the proof of payment required in paragraph (a) of this section shall consist of a receipted Schedule 1 (Form 2290) that is returned by the Internal Revenue Service to a taxpayer that files a return of tax under section 4481(a) and pays the amount of tax (or installment thereof) due with such return. A photocopy of such receipted Schedule 1 shall also serve as proof of payment. Such proof of payment shall also serve as proof or suspension of the tax under § 41.4483–3 for the number of vehicles entered in that part of the Schedule 1 designated for vehicles for which tax has been suspended. The vehicle identification number of any vehicle for which a return is being filed, whether tax is being paid with respect to such vehicle or tax is suspended on such vehicle, must appear on the Schedule 1 (or an attached page) in order for the Schedule 1 to be a valid proof of payment for such vehicle.

(2) *Acceptable substitute for receipted Schedule 1.* For purposes of this section, a photocopy of the Form 2290 (with the Schedule 1 attached) that is filed with the Internal Revenue Service for a vehicle being entered into the United States with sufficient documentation of payment of tax due at the time the Form 2290 is filed (such as a photocopy of both sides of a cancelled check) shall be accepted as proof of payment. No documentation of payment of tax is required with the substitute proof of payment if at the time the Form 2290 is filed the tax imposed by section 4481(a)

is suspended under §41.4483–3 with respect to the vehicle entering the United States. This substitute proof of payment may be used to enter a vehicle into the United States when, for example, the receipted Schedule 1 has been lost, or if the taxpayer that filed a Form 2290 with respect to such vehicle has not received a receipted Schedule 1 at the time such vehicle enters the United States.

(d) *Taxable periods to which this section applies*. This section shall apply to any taxable period beginning on or after July 1, 1987.

[T.D. 8159, 52 FR 33585, Sept. 4, 1987, as amended by T.D. 8177, 53 FR 6626, Mar. 2, 1988]

§41.6011(a)–1 Returns.

(a) *In general*. (1) A person that is liable for tax under §41.4481–2(a)(1)(i)(A), (B), or (C) must file a return for the taxable period with respect to the tax imposed by section 4481.

(2) A person that is liable for tax under §41.4481–2(a)(1)(i)(D) must file a return for a taxable period with respect to the tax imposed by section 4481 if the Commissioner notifies the person that the tax for the taxable period has not been paid in full.

(3) A transferee of a vehicle that receives a statement described in the first sentence of §41.4483–3(f) must file a return with the statement attached.

(4) A person that is liable for tax under §41.4481–2(a)(1)(i)(A), (B), (C), or (D), after taking into account the modification required under §41.4481–2(a)(2), is treated as liable for tax by the same provision of §41.4481–2(a)(1)(i) for purposes of this section and must file a return.

(b) *Form 2290*. The return required under paragraph (a) of this section is Form 2290, ''Heavy Highway Vehicle Use Tax Return,'' or such other return as the Commissioner may prescribe. The return is made in accordance with the instructions applicable to the form.

(c) *Required use of electronic filing*—(1) *In general*. A person that files any return reporting 25 or more vehicles must file the return electronically, as prescribed by the Commissioner. For this purpose, the number of vehicles reported on a return is the total number of vehicles for which tax is reported and does not include vehicles for which a suspension of tax is claimed.

(2) *Examples*. The application of this paragraph (c) may be illustrated by the following examples:

Example 1. A has 100 vehicles registered in its name, all of which have a taxable gross weight in excess of 55,000 pounds. Seventy-five of the vehicles are in use on July 1. Twenty-five are in dead storage as described in §41.4482(c)–1(c). The vehicles in dead storage are not in use and they are not listed on the Schedule 1. A files Form 2290 electronically for the 75 vehicles in use on July 1 and receives a receipted Schedule 1. On August 23 of the same calendar year, A uses the remaining 25 vehicles. A does not file Form 2290 electronically but uses a paper Form 2290. A has failed to meet the requirements of section 4481(e) for the remaining 25 vehicles.

Example 2. Assume the same facts as in *Example* 1 except that on August 23, A uses 15 of the vehicles that were not used in July. The remaining 10 vehicles are not used in August. A does not file Form 2290 electronically but uses a paper Form 2290. A has correctly filed a return as required by section 4481(e).

(d) *Effective/applicability date*. Paragraphs (a)(4) and (c) of this section apply to returns filed on and after July 1, 2015. For rules applicable before that date, see 26 CFR 41.6011(a)–1 (revised as of April 1, 2014).

[T.D. 8879, 65 FR 17154, Mar. 31, 2000, as amended by T.D. 9698, 79 FR 64317, Oct. 29, 2014]

§41.6060–1 Reporting requirements for tax return preparers.

(a) *In general*. A person that employs one or more tax return preparers to prepare a return or claim for refund of excise tax under section 4481, other than for the person, at any time during a return period, shall satisfy the record keeping and inspection requirements in the manner stated in §1.6060–1 of this chapter.

(b) *Effective/applicability date*. This section is applicable for returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008]

§41.6071(a)–1 Time for filing returns.

(a) *In general*. Except as provided in paragraph (b) of this section, a return described in §41.6011(a)–1 must be filed

by the last day of the month following the month in which—

(1) A person becomes liable for tax under § 41.4481–2(a)(1)(i)(A), (B), or (C);

(2) A person that is liable for tax under § 41.4481–2(a)(1)(i)(D) is notified by the Commissioner that the tax has not been paid in full; or

(3) A transferee described in § 41.4483–3(f) acquires the vehicle.

(b) *Certain transit-type buses.* In the case of any bus of the transit type, the first taxable use of which in any taxable period occurs prior to the close of the test period (see paragraph (c) of § 41.4483–2) with reference to which liability for the tax on the use of such transit-type bus for such taxable period is determined, the person in whose name the bus is registered at the time of such use shall, after such test period and on or before the last day of the following month make a return of such tax for such taxable period on the use of such transit-type bus.

(c) *Effect of sale during taxable period.* A person that is liable for tax under § 41.4481–2(a)(1)(i)(A), (B), (C), or (D) after taking into account the modification required under § 41.4481–2(a)(2) is treated as liable for tax under the same provision of § 41.4481–2(a)(1)(i) for purposes of this section.

(d) *Effective/applicability date.* Paragraph (c) of this section applies on and after July 1, 2015. For rules applicable before that date, see 26 CFR 41.6071(a)–1 (revised as of April 1, 2014).

[T.D. 6216, 21 FR 9645, Dec. 6, 1956, as amended by T.D. 6743, 29 FR 7932, June 23, 1964; T.D. 8879, 65 FR 17155, Mar. 31, 2000; T.D. 9537, 76 FR 43123, July 20, 2011; T.D. 9698, 79 FR 64317, Oct. 29, 2014]

§ 41.6091–1 Place for filing returns.

(a) *In general.* Except as provided in paragraph (b) of this section, returns must be filed in accordance with the instructions applicable to the form on which the return is made.

(b) *Hand-carried returns*—(1) *Persons other than corporations.* Returns of persons other than corporations that are filed by hand carrying must be filed with any person assigned the responsibility to receive hand-carried returns in the local Internal Revenue Service office that serves the principal place of business or legal residence of the person.

(2) *Corporations.* Returns of corporations that are filed by hand carrying must be filed with any person assigned the responsibility to receive hand-carried returns in the local Internal Revenue Service office that servesthe principal place of business or principal office or agency of the corporation.

[T.D. 8879, 65 FR 17155, Mar. 31, 2000, as amended by T.D. 9156, 69 FR 55746, Sept. 16, 2004]

§ 41.6101–1 Period covered by returns.

Each return is for a taxable period as defined in section 4482.

[T.D. 8879, 65 FR 17155, Mar. 31, 2000]

§ 41.6107–1 Tax return preparer must furnish copy of return to taxpayer and must retain a copy or record.

(a) *In general.* A person who is a signing tax return preparer of any return or claim for refund of excise tax under section 4481 shall furnish a completed copy of the return or claim for refund to the taxpayer and retain a completed copy or record in the manner stated in § 1.6107–1 of this chapter.

(b) *Effective/applicability date.* This section is applicable for returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008]

§ 41.6109–1 Identifying numbers.

Every person required under § 41.6011(a)–1 to make a return must provide the identifying number required by the instructions to the form on which the return is made.

[T.D. 8879, 65 FR 17155, Mar. 31, 2000]

§ 41.6109–2 Tax return preparers furnishing identifying numbers for returns or claims for refund filed after December 31, 2008.

(a) *In general.* Each excise tax return or claim for refund under section 4481 prepared by one or more signing tax return preparers must include the identifying number of the preparer required by § 1.6695–1(b) of this chapter to sign the return or claim for refund in the manner stated in § 1.6109–2 of this chapter.

(b) *Effective/applicability date.* This section is applicable for returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008]

§41.6151(a)–1 Time and place for paying tax.

(a) *In general.* The tax must be paid at the time prescribed in §41.6071(a)–1 for filing the return and at the place prescribed in §41.6091–1 for filing the return.

(b) *Effective/applicability date.* This section applies on and after July 1, 2015. For rules applicable before that date, see 26 CFR 41.6151(a)–1 and 41.6151(a)–1T (revised as of April 1, 2014).

[T.D. 9698, 79 FR 64317, Oct. 29, 2014]

§41.6694–1 Section 6694 penalties applicable to tax return preparer.

(a) *In general.* For general definitions regarding section 6694 penalties applicable to preparers of tax returns or claims for refund, see §1.6694–1 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78455, Dec. 22, 2008]

§41.6694–2 Penalties for understatement due to an unreasonable position.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of excise tax under section 4481 shall be subject to penalties under section 6694(a) in the manner stated in §1.6694–2 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78456, Dec. 22, 2008]

§41.6694–3 Penalty for understatement due to willful, reckless, or intentional conduct.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of excise tax under section 4481 shall be subject to penalties under section 6694(b) in the manner stated in §1.6694–3 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78456, Dec. 22, 2008]

§41.6694–4 Extension of period of collection when preparer pays 15 percent of a penalty for understatement of taxpayer's liability and certain other procedural matters.

(a) *In general.* For rules relating to the extension of period of collection when a tax return preparer who prepared a return or claim for refund for excise tax under section 4481 pays 15 percent of a penalty for understatement of taxpayer's liability, and procedural matters relating to the investigation, assessment and collection of the penalties under section 6694(a) and (b), the rules under §1.6694–4 of this chapter will apply.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78456, Dec. 22, 2008]

§41.6695–1 Other assessable penalties with respect to the preparation of tax returns for other persons.

(a) *In general.* A person who is a tax return preparer of any return or claim for refund of excise tax under section 4481 of the Internal Revenue Code (Code) shall be subject to penalties for failure to furnish a copy to the taxpayer under section 6695(a) of the Code, failure to sign a return under section 6695(b) of the Code, failure to furnish an identification number under section 6695(c) of the Code, failure to retain a copy or list under section 6695(d) of the Code, failure to file a correct information return under section 6695(e) of the Code, and negotiation of a check under section 6695(f) of the Code, in the manner stated in §6695–1 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed after December 31, 2008.

[T.D. 9436, 73 FR 78456, Dec. 22, 2008; 74 FR 5106, Jan. 29, 2009]

§ 41.6696–1 Claims for credit or refund by tax return preparers.

(a) *In general.* For rules for claims for credit or refund by a tax return preparer who prepared a return or claim for refund for excise tax under section 4481, the rules under § 1.6696–1 of this chapter will apply.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78456, Dec. 22, 2008]

§ 41.7701–1 Tax return preparer.

(a) *In general.* For the definition of a tax return preparer, see § 301.7701–15 of this chapter.

(b) *Effective/applicability date.* This section is applicable to returns and claims for refund filed, and advice provided, after December 31, 2008.

[T.D. 9436, 73 FR 78456, Dec. 22, 2008]

PART 43—EXCISE TAX ON TRANSPORTATION BY WATER

Sec.

AUTHORITY: 26 U.S.C. 7805.

SOURCE: T.D. 8314, 55 FR 41520, Oct. 12, 1990, unless otherwise noted.

§ 43.0–1 Introduction.

The regulations in this part 43 are designated ''Excise Tax on Transportation by Water.'' The regulations relate to the taxes on transportation by water imposed by section 4471 of the Internal Revenue Code. See part 40 of this chapter for regulations relating to returns, payments, and deposits of taxes imposed by section 4471.

[T.D. 8442, 57 FR 48185, Oct. 22, 1992]

§ 43.4471–1 Imposition of tax.

(a) *In general.* Section 4471 imposes a tax of $3 per passenger on a covered voyage as is defined in section 4472.

(b) *By whom paid.* The tax is imposed on the person providing the covered voyage (the operator of the vessel).

[T.D. 8314, 55 FR 41520, Oct. 12, 1990. Redesignated by T.D. 8422, 57 FR 33636, July 30, 1992]

§ 43.4472–1 Definitions.

(a) *In general.* For definitions of the terms ''covered voyage'' and ''passenger vessel,'' see sections 4472 (1) and (2).

(b) *Voyage.* For purposes of this section, ''voyage'' means a journey of a vessel that includes the outward and homeward trips or passages. The voyage commences when the vessel begins to load passengers and continues during the entire ensuing period until the vessel has made one outward and one homeward passage (including intermediate passages, if made). A voyage may be a covered voyage with respect to a passenger even if the passenger does not make both an outward and homeward passage or if the point of first embarkation or disembarkation by the passenger in the United States is an intermediate stop of the vessel.

(c) *Over 1 or more nights.* A voyage is considered to extend over 1 or more nights if it extends for more than 24 hours.

(d) *Engaged in gambling.* A passenger is engaged in gambling aboard a vessel if that person is participating as a player in any policy game or other lottery, or any other game of chance, for money or other thing of value, provided that the policy game, other lottery, or game of chance is conducted, sponsored, or operated by the owner or operator of the vessel, as either principal or agent, or by an employee, agent, or franchisee of the owner or operator of the vessel. A passenger is not engaged in gambling aboard a vessel if the passenger participates with other passengers in a casual, ''friendly'' game of chance that is not conducted, sponsored, or operated by the owner or operator of the vessel or by an employee, agent, or franchisee of the owner or operator.

(e) *Territorial waters.* For purposes of sections 4471 and 4472, the territorial waters of the United States are those waters within the international boundary line between the United States and any contiguous foreign country or within 3 nautical miles (3.45 statute miles) from low tide on the coastline. No inference is intended as to the extent of the territorial limits for other tax purposes.